

CHAPTER 9: HEALTH, SAFETY AND SANITATION

ARTICLE 6: FOOD AND BEVERAGES

PART 1: FOOD SANITATION

§ 9-6-1-1 SHORT TITLE.

Sections 9-6-1-1 et seq. shall be known and may be cited as the "Food Sanitation Ordinance."

('74 Code, § 6-25-1) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-2 DEFINITIONS.

For the purpose of §§ 9-6-1-1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULTERATED. The condition of a food if:

- (1) It bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
- (2) If it bears or contains any added poisonous or deleterious substance, for which no safe tolerance has been established by regulations, or in excess of such tolerance if one has been established;
- (3) If it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumption;
- (4) If it has been produced, processed, prepared, packed or held under insanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health;
- (5) If it is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter;
- (6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

APPROVED. Acceptable to the enforcement authority based on its determination as to conformance with appropriate standards and good public health practice.

COMMISSARY. A processing establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored.

CORROSION-RESISTANT MATERIALS. Those materials that maintain acceptable surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions and other conditions of use.

EASILY CLEANABLE. That surfaces are readily accessible and made of such material and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

ENFORCEMENT AUTHORITY. The Mayor or his designated agent(s).

EMPLOYEE. The permit holder, individuals having supervisory or management duties and any person working in a food-service and/or food processing establishment.

EQUIPMENT. All stoves, ranges, hoods, meat saws, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steamtables, or similar items, other than utensils, used in the operation of a food-service or food processing establishment.

EXTENSIVELY REMODELED. Any remodeling involving structural alteration of walls, replacement or modification of plumbing, or major equipment replacement exclusive of normal maintenance and repairs.

FOOD. Any raw, cooked, processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

FOOD-CONTACT SURFACES. Those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.

FOOD PROCESSING ESTABLISHMENT. A commercial establishment in which food is processed, prepared, packaged, stored or distributed for human consumption excluding meat markets, retail food stores and warehouses.

FOOD-SERVICE ESTABLISHMENT. Any place where food is prepared and intended for individual portion service and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, limited facilities as defined by §§ 9-6-1-1 et seq. or the location of food vending machines and supply vehicles.

GROSS SALES. The total amount of money or the monetary value of other consideration received from selling food on a calendar year basis by each food service establishment or by each food processing establishment as defined in §§ 9-6-1-1 et seq.

HAMBURGER. Chopped fresh beef.

HERMETICALLY SEALED CONTAINER. A container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

INFLATION FACTOR. An index by which established fees are either increased or decreased relative to inflation.

KITCHENWARE. All multi-use utensils other than tableware.

LIMITED FACILITY. A residential dwelling meeting applicable zoning requirements and other pertinent requirements of law, that provides lodging and meals for remuneration.

MISLABELED. The presence of any written, printed, or graphic matter upon or accompanying food or containers of food which is false, misleading, or which violates any applicable federal, state or local labeling requirements.

MOBILE FOOD UNIT. A vehicle-mounted food service establishment designed to be readily movable from location to location.

PACKAGED. Bottled, canned, cartoned, or securely wrapped.

PERISHABLE FOOD. Any food of such type or in such condition as may spoil.

PERSON. An individual, partnership, corporation, association, nonprofit organization, educational institution, governmental or any other legal entity. This term means either the singular or the plural as the case may be.

PERSON IN CHARGE. The individual present in a food-service or food processing establishment who is the apparent supervisor of the establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

POTENTIALLY HAZARDOUS FOOD. Any food or food ingredient, natural or synthetic, in a form capable of supporting:

- (1) The rapid and progressive growth of infectious or toxicogenic microorganisms; or
- (2) The slower growth of *C. botulinum*.

Exceptions to the above definition include; eggs with shells intact; foods with a water activity value of .85 or less; foods with a pH value of 4.6 or less; or foods for which laboratory evidence (acceptable to the regulatory authority) demonstrates that rapid and progressive growth of infectious and toxicogenic microorganisms cannot occur.

PUSH CART. A nonself-propelled vehicle limited to the preparation and serving of frankfurters, commissary wrapped food maintained at safe temperatures or limited to serving nonpotentially hazardous food.

SAFE TEMPERATURES. As applied to potentially hazardous food means temperatures of 45° F. (7° C.) or below and 140° F. (60° C.) or above.

SANITIZATION. Effective bactericidal treatment of clean surfaces of equipment and utensils by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count to a safe level.

SEALED. Free of cracks or other openings that permit the entry or passage of moisture.

SINGLE-SERVICE ARTICLES. Cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, paper napkins, doilies, wrapping material, toothpicks and all similar articles designed for one-time, one-person use and then discarded. The term does not include ***SINGLE USE*** articles such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer.

SULFITING AGENTS. Sulfur dioxide or any chemical which produces sulfur dioxide when used to treat foods, including the following: sodium sulfite; sodium bisulfite; potassium bisulfite; sodium metabisulfite; and potassium metabisulfite.

TABLEWARE. All multi-use eating and drinking utensils.

TEMPORARY FOOD-SERVICE ESTABLISHMENT. A food-service establishment which operates at a fixed location for a temporary period of time, not to exceed 14 days, in connection with a celebration or single event.

UTENSIL. Any approved implement used in the preparation, storage, transportation or service of food.

WHOLESOME. In sound condition, clean, free from adulteration, free from insects and insect fragments and otherwise suitable for use as human food.

('74 Code, § 6-25-1.1) (Ord. 9-1988)

§ 9-6-1-3 FOOD CARE.

(A) *Food Supplies.*

(1) General. All food intended for use in food processing and/or food-service establishments shall comply with all laws, regulations and ordinances, shall be clean, wholesome, free from spoilage, free from adulteration and mislabeling and safe for human consumption. The use or sale of home-canned or home-prepared foods is prohibited.

(2) Special Requirements.

(a) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and milk products shall be made from pasteurized milk and milk products. Cheese from an approved processing plant aged a minimum of 60 days is exempt from this requirement.

(b) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were received until used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency. The identification tag shall be kept on file within the establishment for a period of 90 days from receipt of the shell stock.

(c) Only clean whole eggs with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled peeled eggs, commercially prepared and packaged, may be used. Eggs with intact shells which have been hard boiled and air cooled in the establishment are not considered to be potentially hazardous food.

(d) A variance for a pot luck dinner may be granted provided the grantee meets the pot luck dinner requirements promulgated by the enforcement authority.

(e) On premise application of sulfiting agents on food is prohibited in any food service establishment or by a contractor hired for the final preparation of food for that establishment.

(B) *Food Protection.*

(1) General. All foods while being prepared, served, displayed, stored, sold at food processing and/or food-service establishments or during transportation shall be wholesome and protected from contamination. The product temperature of all potentially hazardous food shall be maintained at 45° F. (7° C.) or below, or 140° F. (60° C.) or above, except during necessary periods of preparation.

(2) Emergency Occurrences. In the event of a fire, flood, power outage or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge

shall immediately contact the enforcement authority. Upon receiving notice of this occurrence, the enforcement authority shall take whatever action that it deems necessary to protect the public health.

(C) *Food Storage.*

(1) General. All food whether raw or prepared, if removed from the container or package in which it was obtained, shall be enclosed in a clean, covered container except during necessary periods of preparation or service. Use of a cloth towel as a container cover is prohibited except that clean linens or napkins may be used for lining or covering clean bread or roll containers. Food and food containers shall be stored at least four inches above the floor on clean surfaces in a way that permits cleaning the storage area and protects the food from contamination by splash. Metal pressurized beverage containers, and cased food packaged in cans, glass, or other water-proof containers need not be elevated when the food container is not exposed to floor moisture. Food and food containers shall not be stored under leaking sewer or water lines or leaky automatic fire protection sprinkler heads. The storage of food in toilet rooms or vestibules is prohibited. Food not subject to further washing or cooking before serving shall be stored in a way that protects it from contamination. Wet storage of packaged food shall be prohibited. Bulk food not stored in the container or package in which it was obtained shall be stored in a container identifying the food by common name unless its identity is unmistakable.

(2) Refrigerated Storage. Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of food at required temperatures during storage. Each cold storage facility shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.), located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.), may be used in lieu of indicating thermometers. Stored ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Frozen foods shall be kept frozen and should be stored at a temperature of 0° F. (-18° C.) or below. Uncut milk tubes in milk dispensers shall be stored inside the dispenser. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled from 140° F. (60° C.) to an internal temperature of 70° F. (21° C.) within a two-hour period. A maximum internal temperature of 45° F. (7° C.) shall be achieved within the next four-hour period and maintained for the duration of storage. The total cooling period for potentially hazardous food shall not exceed six hours, and shall require utilizing methods such as shallow pans, agitation, quick chilling, or water circulation external to the food container. Potentially hazardous foods to be transported shall be pre-chilled and held at a temperature of 45° F. (7° C.) or below unless maintained in accordance with division (D)(3) of this section.

(3) Hot Storage.

(a) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically

scaled indicating thermometer, accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.), located to measure air temperature in the coolest part of the facility and located so as to be easily readable. Recording thermometers, accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.), may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bain-maries, steamtables, steam kettles, heat lamps, cal-rod units, or insulated food carriers, a probe (stab) thermometer shall be available and used to check internal food temperature.

(b) The internal temperature of potentially hazardous foods requiring hot storage shall be 140° F. (60° C.) or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140° F. (60° C.) or above, unless maintained in accordance with division (D)(2) of this section.

(D) *Food Preparation and Processing.*

(1) General. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed, and sanitized to prevent cross-contamination.

(2) Raw Fruits and Raw Vegetables. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(3) Cooking Potentially Hazardous Foods. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140° F. (60° C.), except that:

(a) Poultry, poultry stuffings, stuffed meats and stuffings containing meats shall be cooked to heat all parts of the food to at least 165° F. (74° C.) with no interruption of the cooking process.

(b) Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150° F. (66° C.). When cooked in a microwave oven the internal temperature of pork and food containing pork shall be a minimum of 170° F. (77° C.).

(c) Rare roast beef shall be cooked to an internal temperature of at least 130° F. (55° C.), and rare beef steak shall be cooked to a temperature of 130° F. (55° C.) unless otherwise ordered by the immediate consumer. When using a microwave oven the internal temperature of beef roast shall be a minimum of 145° F. (63° C.).

(4) Dry Milk and Dry Milk Products. Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes. Only pasteurized dry milk and dry milk products shall be used. The use of reconstituted dry milk for drinking or for use in cereals is prohibited.

(5) Liquid, Frozen, Dry Eggs and Egg Products. Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

(6) Reheating. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165° F. (74° C.) or higher throughout before being placed in a hot food storage facility. Steamtables, bain-maries, warmers, "crock pots" and other hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods.

(7) Non-Dairy Products. Non-dairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized covered containers not exceeding one gallon in capacity and must be treated as potentially hazardous and must be properly refrigerated.

(8) Product Thermometers. Metal stem-type numerically scaled indicating thermometers, accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.), shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

(9) Thawing Potentially Hazardous Food. Potentially hazardous foods shall be thawed:

(a) In a refrigerated unit at a temperature not to exceed 45° F. (7° C.); or

(b) Under potable running water of a temperature of 70° F. (21° C.) or below, with sufficient water velocity to agitate and float off loose particles in the overflow. The sink must have an indirect waste; or

(c) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(d) As part of the conventional cooking process.

(10) Meat Processing. Chopped fresh beef, "hamburger," shall not contain more than 30% fat with or without the addition of beef fat. Preservatives or dyes shall not be added to chopped fresh beef or to any other fresh meat.

(E) *Food Display and Service.*

(1) Potentially Hazardous Food. Potentially hazardous food shall be kept at an internal temperature of 45° F. (7° C.) or below or at an internal temperature of 140° F. (70° C.) or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130° F. (54° C.).

(2) Milk and Cream Dispensing. Milk and milk products for drinking shall be provided to the consumer from a container filled in an approved milk processing plant or drawn from a bulk milk container filled in an approved milk processing plant, and stored in a mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half pint are required for mixed drinks, cereal, or desert service, milk and milk products may be poured from a

commercially filled container of not more than one gallon capacity. Cream or half-and-half shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(3) Non-Dairy Product Dispensing. Non-dairy creaming agents shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(4) Condiment Dispensing.

(a) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with division (8) below.

(b) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer usage shall be provided in individual packaged or in pour-type dispensers.

(5) Ice Dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice dispensing utensils or through automatic self-service, ice dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

(6) Dispensing Utensils. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

(a) Stored in the food with the dispensing utensil handle extended out of the food; or

(b) Stored clean and dry; or

(c) Stored in running water such as in a dipper well.

(7) Reservice. Once served to a customer, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be reserved.

(8) Display Equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable sneeze protector devices, enclosed display cases, or by other effective means. Sufficient hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

(9) **Re-Use of Tableware.** Re-use of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

(F) **Food Transportation.** During transportation, food and food utensils shall be kept in covered containers or completely wrapped so as to be protected from contamination. Foods in original individual packages do not need to be over-wrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operation, all food shall meet the requirements of §§ **9-6-1-1** et seq. relating to food protection and storage.

('74 Code, § 6-25-2) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-4 PERSONNEL.

(A) **Employee Health.** No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection shall work in a food-service establishment in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

(B) **Personal Cleanliness.** Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

(C) **Clothing.** The outer clothing of all employees shall be clean. All employees shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

(D) **Employee Practices.**

(1) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

(2) Employees shall not use tobacco in any form while engaged in food preparation or processing or service, nor while in equipment-washing or utensil-washing or food preparation areas. Employees shall use tobacco only in designated areas. An employee tobacco use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils or other items needing protection.

(3) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(4) Employees shall maintain a high° of personal cleanliness and shall conform to good hygienic practices during all working periods in the food-service and/or food processing establishment.

('74 Code, § 6-25-3) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-5 EQUIPMENT AND UTENSILS.

(A) *Materials.*

(1) General. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(2) Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant.

(3) Wood. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in division (A)(1) above may be used for cutting blocks, cutting boards, salad bowls, bakers' tables, and pizza shovels. Wood may be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood as a food contact surface under other circumstances is prohibited.

(4) Plastics. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in division (A)(1) above, are permitted for repeated use.

(5) Mollusk and Crustacea Shells. Mollusk and crustacea shells may be used only once as a serving container. Further re-use of such shells for food-service is prohibited.

(6) Single Service. Re-use of single-service articles is prohibited, except that heavy duty plastic knives, forks, and spoons may be reused if they comply with division (A)(4) above.

(B) *Design and Fabrication.*

(1) General. All equipment and utensils, including plastic ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

(a) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads on equipment and utensils shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads shall be minimized.

(b) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food contact surfaces.

(c) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice; provided that such tubing is fabricated from safe materials; is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin; and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(d) Sinks and drain boards shall be self-draining.

(2) Accessibility. Unless designed for in-place cleaning, food contact surfaces shall be accessible for cleaning and inspection:

(a) Without being disassembled; or

(b) By disassembling without the use of tools; or

(c) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

(3) In-Place Cleaning. Equipment intended for in-place cleaning shall be so designed and fabricated that:

(a) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(b) Cleaning and sanitizing solutions will contact all interior food contact surfaces; and

(c) The system is self-draining or capable of being completely evacuated.

(4) Pressure Spray Cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

(5) Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.).

(6) Non-Food Contact Surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(7) Ventilation Hoods. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food contact surfaces. Filters or other grease-extracting equipment shall be readily removable for cleaning and replacement. Hood design and installation must comply with the requirements of the Building Code of the city and meet the City Fire Department standards.

(8) Existing Equipment. Equipment which was installed in a food-service establishment prior to the effective date of §§ 9-6-1-1 et seq., and which does not meet fully all of the design and fabrication requirements of this section, shall be deemed acceptable in that establishment, if it is in good repair, capable of being maintained in a sanitary condition, is free of rust, and the food contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of §§ 9-6-1-1 et seq. shall meet the requirements of §§ 9-6-1-1 et seq.

(C) *Equipment Installation and Location.*

(1) General. Equipment, including ice makers and ice storage equipment, shall not be located under leaking sewer or water lines, open stairwells, or other sources of contamination. This requirement does not apply to nonleaking automatic fire protection sprinkler heads that may be required by Ordinance.

(2) Table-Mounted Equipment.

(a) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(b) Equipment is **PORTABLE** within the meaning of the division (a) above if:

1. It is small and light enough to be moved easily by one person; and

2. It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(3) Floor-Mounted Equipment.

(a) Floor-mounted equipment, unless readily movable, shall be:

1. Sealed to the floor; or
2. Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or
3. Elevated on legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor and equipment if no part of the floor under the mixer is more than six inches from cleaning access.

(b) Equipment is easily movable if:

1. It is mounted on wheels or casters; and
2. It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(c) Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

(4) Aisles and Working Spaces. Aisles and working spaces between units of equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

('74 Code, § 6-25-4) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-6 CLEANING, SANITIZATION AND STORAGE OF EQUIPMENT AND UTENSILS.

(A) *Equipment and Utensil Cleaning and Sanitization.*

(1) Cleaning Frequency.

- (a) Tableware shall be washed, rinsed, and sanitized after each use.
- (b) To prevent cross-contamination, kitchenware and food contact surfaces of equipment shall be washed, rinsed and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(c) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food and amount of food particle accumulation.

(d) The food contact surfaces of grills, griddles and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(e) Nonfood contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(2) Wiping Cloths.

(a) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.

(b) Moist cloths or sponges used for wiping food spills on kitchenware and food contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions approved in §§ 9-6-1-1 et seq. and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(c) Moist cloths or sponges used for cleaning non-food contact surfaces of equipment such as counters, dining table tops and shelves shall be cleaned and rinsed as specified in division (A)(2)(b) above and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(3) Manual Cleaning and Sanitizing.

(a) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

(b) Drain boards, with a minimum length of 18 inches, shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities. Easily movable dish tables may be used in lieu of drain boards.

(c) Equipment and utensils shall be pre-flushed or pre-scraped and, when necessary, pre-soaked to remove gross food particles and soil.

(d) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

1. Sinks shall be cleaned prior to use; and
2. Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean; and
3. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
4. Equipment and utensils shall be sanitized in the third compartment according to one of the methods cited in division (A)(3)(e) below.

(e) The food contact surfaces of all equipment and utensils shall be sanitized by:

1. Immersion for at least one-half minute in clean, hot water at a temperature of at least 170° F. (77° C.); or
2. Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and a temperature of at least 75° F. (24° C.); or
3. Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75° F. (24° C.); or
4. Immersion in a clean solution containing any other chemical sanitizing agent approved by both the city and state health authorities that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75° F. (24° C.) for one minute; or
5. Treatment with steam free from materials or additives harmful to human health in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
6. Rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution in the case of equipment too large to sanitize by immersion.

(f) When hot water is used for sanitizing, the following facilities shall be provided and used:

1. An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170° F. (77° C.); and

2. A numerically scaled indicating thermometer, accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.), convenient to the sink for frequent checks of water temperature; and

3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(g) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted by Federal regulations. A test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used by establishment operators.

(4) Mechanical Cleaning and Sanitizing.

(a) Cleaning and sanitizing may be done by commercial spray-type or immersion dishwashing machines approved by the National Sanitation Foundation. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed so as to preclude the possibility of a cross-connection with the potable water supply and shall be maintained in an operating condition.

(b) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4 inch Iron Pipe Size (IPS) valve and gauge shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(c) Machine or water line mounted numerically scaled indicating thermometers accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C.), shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(d) Rinse water tanks shall be protected by baffles, curtains or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machine. Jets, nozzles and all other parts of each machine shall be maintained free of chemical deposits, debris and other soil. The spray nozzles and/or jets shall be kept adjusted for maximum spray on tableware being washed.

(e) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization

and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

(f) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a pre-wash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, baskets or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(g) Machines (single-tank, stationary- rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used provided that:

1. The temperature of the wash water shall not be less than 120° F. (49° C.);
2. The wash water shall be kept clean;
3. Chemicals added for sanitization purposes shall be automatically dispensed;
4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturers' directions;
5. The chemical sanitizing rinse water temperature shall be not less than 75° F. (24° C.) nor less than the temperatures specified by the machine's manufacturer;
6. The chemical sanitizers used must be approved by both the city and state health authorities; and
7. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

(h) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperatures stated in divisions (A)(4)(h)1. through 5. of this section. Wash and pump rinse temperatures are measured in the respective tanks, and the final rinse temperature is measured at the dish rack using a maximum registering thermometer or temperature sensitive tape.

1. Single-tank, stationary-rack, dual temperature machine:

Wash temperature 150° F. (66° C.)

Final rinse temperature 160° F. (71° C.)

2. Single-tank, stationary-rack, single temperature machine:

Wash temperature 160° F. (71° C.)

Final rinse temperature 160° F. (71° C.)

3. Single-tank, conveyor machine:

Wash temperature 160° F. (71° C.)

Final rinse temperature 160° F. (71° C.)

4. Multi-tank, conveyor machine:

Wash temperature 150° F. (66° C.)

Pumped rinse temperature 160° F. (71° C.)

Final rinse temperature 160° F. (71° C.)

5. Single-tank, pot, pan and utensil washer (either stationary or moving rack):

Wash temperature 140° F. (60° C.)

Final rinse temperature 160° F. (71° C.)

(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a clean and satisfactory operating condition.

(5) Drying. After sanitization, all equipment and utensils shall be air dried.

(B) *Equipment and Utensil Storage.*

(1) Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contacting inside surfaces or surfaces that contact the user's mouth.

(2) Storage.

(a) Cleaned and sanitized utensils and equipment shall be stored at least four inches above the floor in a clean, dry location in a way that protects them from contamination. The food contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under leaking sewer or water lines, or leaky fire protection sprinkler heads. Utensils shall be air dried before being stored or shall be stored in a self-draining position.

(b) Glasses and cups shall be stored inverted on approved trays or on mesh. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is pre-wrapped, holders for knives, forks and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

(3) Single-Service Articles.

(a) Single-service articles shall be stored at least four inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under leaking sewer or water lines, or leaky automatic fire protection sprinkler heads.

(b) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

(c) Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his/her hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks and spoons are pre-wrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.

(4) Prohibited Storage Area. The storage of food, equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

('74 Code, § 6-25-5) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-7 SANITARY FACILITIES AND CONTROLS.

(A) *Water Supply.*

(1) General. The water supply shall be from the city water system or an approved private system. Water shall be piped into all food-service establishments. Hot and cold running water, under pressure, shall be provided in all areas where food is prepared, or equipment, utensils or containers are washed. Ice used for any purpose shall be made from water which comes from an approved source and shall be used only if it has been manufactured, stored, transported and handled in an approved manner.

(2) Transportation. All potable water not provided directly by a piping system to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed- water system. Both of these systems shall be constructed and operated according to law.

(3) Bottled Water. Bottled and packaged potable water shall be obtained from a source that complies with federal and state laws and local ordinances and shall be

handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(4) **Water Under Pressure.** Water under pressure and at the required temperatures shall be provided to all fixtures and equipment that use water.

(5) **Steam.** Steam used in contact with food or food contact surfaces shall be free from any materials or additives other than those specified by federal regulations.

(B) **Sewage.** All sewage shall be disposed of in the city sewerage system except in those cases where the city system is not available, at which time a private system meeting all requirements of law may be installed.

(C) **Plumbing.**

(1) **General.** Plumbing shall be sized, installed and maintained according to law. There shall be no cross-connections (as defined within §§ 6-2-1 et seq., Cross-Connection Prevention and Control) between the potable water supply and any nonpotable water supply (as defined within §§ 6-2-1 et seq., Cross-Connection Prevention and Control), questionable water supply, or any source of contamination or pollution (as defined within the §§ 6-2-1 et seq., Cross-Connection Prevention and Control) except as provided by §§ 6-2-1 et seq., Cross-Connection Prevention and Control.

(2) **Nonpotable Water System.** A nonpotable water system is permitted only for purposes such as air-conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(3) **Backflow** (as defined within §§ 6-2-1 et seq., Cross-Connection Prevention and Control). The potable water system shall be installed to preclude the possibility of backflow. Backflow prevention assemblies (as defined within §§ 6-2-1 et seq., Cross-Connection Prevention and Control) shall be installed to protect against backflow at all fixtures and equipment where an approved air gap separation (as defined within §§ 6-2-1 et seq., Cross-Connection Prevention and Control) is not provided. To be approved an air gap separation (as defined within §§ 6-2-1 et seq., Cross-Connection Prevention and Control) shall be at least twice the diameter of the water supply inlet and the fixture's flood level rim, but in no case less than 1-inch (2.55 cm). Hose attachments to faucets are prohibited, unless an approved atmospheric vacuum breaker (as defined within §§ 6-2-1 et seq., Cross-Connection Prevention and Control) is installed.

(4) **Grease Traps.** Grease traps shall be installed and maintained according to law.

(5) **Garbage Grinders.** If used, garbage grinders shall be installed and maintained according to law.

(6) Drains. There shall be no direct connection between the sewerage system and any drains originating from equipment in which food is placed.

(D) *Toilet Facilities.*

(1) Toilet Installation. Toilet facilities shall be installed according to law, shall be the number required by law, shall be conveniently located and shall be accessible to employees at all times. Public access to restrooms shall be provided, except as exempted and shall be directly from the dining area, from outside the building or through an approved corridor. Access through the food processing area is prohibited. Toilet facilities installed prior to the effective date of §§ 9-6-1-1 et seq. which do not meet the accessibility requirements of this section shall be deemed acceptable in that establishment until such time as the building is remodeled. Food service facilities that do not provide dining areas are not required to provide public restrooms.

(2) Toilet Design. Toilets and urinals shall be designed as to be easily cleanable.

(3) Toilet Rooms. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors which shall be kept closed except during cleaning and maintenance. Toilet rooms shall be kept clean, in good repair and free of objectionable odors.

(4) Toilet Fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

(E) *Handwashing Facilities.*

(1) Lavatory Installation. Lavatories shall be located in or immediately adjacent to toilet rooms or vestibules and shall be at least the number required by law. Each lavatory shall be provided with hot and cold running water from a mixing-type faucet. Any self-closing, slow-closing or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. A minimum of one lavatory or handwash facility shall be installed in the food processing and/or utensil washing area of every food establishment. Lavatories shall be accessible to employees at all times. Utensil washing or food preparation sinks shall not be accepted as handwashing facilities for personnel.

(2) Handwashing Supplies. A supply of hand cleaning soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand drying device with heated air shall be conveniently located near each handwashing area. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near each hand washing area. Lavatories, soap dispensers, hand drying devices and all related fixtures shall be kept clean and in good repair.

(F) *Garbage and Refuse.*

(1) Containers.

(a) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers, and they may be used for storage inside the food-service establishment.

(b) Containers used in food preparation and utensil washing areas shall be kept covered after they are filled and during non-rush business hours.

(c) Containers stored outside the establishment and dumpsters, compactors and compactor systems shall be easily cleanable; shall be provided with tight-fitting lids, doors or covers; and shall be kept covered when not in actual use. Dumpsters need not have closed lids when contents are bagged or dry. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

(d) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(e) Soiled containers shall be cleaned by the operator at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils or food preparation areas. Suitable facilities, including hot water and detergent, or steam shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. Disposal of these wastes onto open fields, parking lots or streets is prohibited.

(2) Storage.

(a) Garbage and refuse on the premises shall be stored in a manner to make it inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

(b) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials; shall be kept clean; shall be insect-proof and rodent-proof; and shall be large enough to store the garbage and refuse containers that accumulate.

(c) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface that is kept clean and maintained in good repair.

(d) Storage areas shall be kept clean and not constitute an odor, fly or any other type of nuisance.

(3) Disposal. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

(G) *Insect and Rodent Control.*

(1) General. Effective measures intended to minimize the presence of rodents, flies, cockroaches and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects and rodents.

(2) Openings. Openings to the outside shall be effectively protected against the entrance of animals and insects by tight-fitting, self-closing doors; or closed windows or screening. Controlled air currents, or other approved means, may be used to prevent the entry of insects during periods of delivery. Screen doors shall be self-closing. Screens for windows, doors, skylights, transoms, intake and exhaust air ducts and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than 16 mesh to the inch.

('74 Code, § 6-25-6) (Ord. 67-1978; Am. Ord. 2-1979; Am. Ord. 9-1988)

§ 9-6-1-8 CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES.

(A) *Floors.*

(1) Floor Construction. Floors and floor coverings of all food preparation, food storage, utensil washing areas, the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth, durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic or tight wood impregnated with plastic, and shall be maintained in good repair. Nothing in this division (1) shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(2) Floor Carpeting. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment washing and utensil washing areas where it would be exposed to large amounts of grease and water, in food storage areas and toilet room areas where urinals or toilet fixtures are located.

(3) Prohibited Floor Covering. The use of sawdust, wood shavings, peanut hulls or similar material as a floor covering is prohibited.

(4) Floor Drains. Properly installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

(5) Walk-In Refrigeration Floors. The floor of each walk-in refrigerator shall be graded to drain all parts of the floor to the outside through a waste pipe doorway or equipped with a floor drain. The floor drain shall be installed so as to prevent backflow.

(6) Mats and Duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design and construction as to facilitate their being easily cleaned.

(7) Floor Junctures. In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water flush cleaning methods are used, the junctures between walls and floors shall not present an open seam of more than 1/32 inch.

(8) Utility Line Installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

(B) *Walls and Ceilings.*

(1) Maintenance. Walls and ceilings, including doors, windows, skylights and similar closures, shall be maintained in good repair.

(2) Construction. The walls, including non-supporting partitions, wall coverings, ceilings, ceilings of walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall not be struck and shall be finished and sealed to provide an easily cleanable surface.

(3) Exposed Construction. Studs, joists and rafters shall not be exposed in those areas listed in division (B)(2) above. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

(4) Utility Line Installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in division (B)(2) above.

(5) Attachments. Light fixtures, vent covers, wall-mounted fans, decorative materials and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained clean and in good repair.

(6) Covering Material Installation. Covering material such as sheet metal, linoleum, vinyl and similar materials shall be easily cleanable and nonabsorbent, and shall be attached and sealed to the wall and ceiling surfaces so as to leave no open spaces or cracks.

(C) *Cleaning Physical Facilities.*

(1) General. Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Floor mats, duckboards, walls, ceilings, attached equipment and decorative materials shall be kept clean. Only dustless methods for cleaning floors and walls such as vacuum cleaning, wet cleaning or the use of dust arresting sweeping compounds with brooms shall be used.

(2) Utility Facility. In new or extensively remodeled establishments, at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil washing, equipment washing or food preparation sinks for this purpose is prohibited.

(D) *Lighting.*

(1) General.

(a) Permanently fixed artificial light sources shall be installed to provide at least 30 foot candles of light on all food preparation surfaces and at equipment or utensil washing work levels.

(b) Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor:

(1) At least 20 foot candles of light in utensil and equipment storage areas and in lavatory and toilet areas; and

(2) At least 20 foot candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

(2) Protective Shielding.

(a) Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within open food storage, preparation, display facilities, and facilities where utensils and equipment are cleaned and stored.

(b) Infra-red or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(E) *Ventilation.*

(1) General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes.

Ventilation systems shall be installed and operated according to city code and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge.

(2) Special Ventilation.

(a) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt and other contaminating materials.

(b) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, fumes or odoriferous vapors or fumes originate shall be mechanically vented to the outside in such a manner as not to create a nuisance.

(F) *Dressing Rooms and Locker Areas.*

(1) Dressing Rooms and Areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service or for utensil washing or storage, except that a storage room containing only completely packaged food may be so designated.

(2) Locker Area. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in rooms or areas containing only completely packaged food or packaged single-service articles.

(G) *Poisonous or Toxic Materials.*

(1) Materials Permitted. Only those poisonous or toxic materials necessary for the maintenance of the establishment, the cleaning and sanitization of equipment and utensils and the control of insects and rodents shall be present in food-service establishments.

(2) Labeling of Materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

(3) Storage of Materials. Poisonous or toxic materials consist of the following two categories:

(a) Insecticides and rodenticides; and

(b) Detergents, sanitizers, related cleaning or drying agents, caustics, acids, polishes and other chemicals. Each of these two categories shall be stored and located so as to be physically separated from each other. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergent or sanitizers at utensil or dishwashing stations.

(4) Use of Materials.

(a) Bactericides, cleaning compounds or other compounds intended for use on food contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.

(b) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturers' labeling.

(5) Personal Medications. Personal medications shall not be stored in food storage, preparation or service areas.

(6) First Aid Supplies. First Aid supplies shall be stored in a way that prevents them from contaminating food and food contact surfaces.

(H) *Premises.*

(1) General.

(a) Food-service and food processing establishments and all parts of the property used in connection with operations of these establishments shall be kept free of litter.

(b) The walking and driving surfaces of all exterior areas of food-service and food processing establishments shall be surfaced with concrete, asphalt, gravel or similar material effectively treated to facilitate maintenance and to minimize dust. These surfaces shall be graded to prevent pooling and kept free of litter.

(c) Only articles necessary to the operation and maintenance of the food-service establishment shall be stored on the premises.

(d) The traffic of unnecessary persons through the food preparation and utensil washing areas is prohibited.

(2) Living Areas. No operation of a food-service or food processing establishment shall be conducted in any room used as living or sleeping quarters, nor shall there be an opening into living or sleeping quarters unless such quarters have egress other than through the food-service or food processing establishment and unless such quarters are separated from the food-service establishment by a hall or room not used for either the purpose of the food-service establishment or domestic purposes. The hall or room must have self-closing doors.

(3) Laundry Facilities.

(a) Laundry facilities in a food-service or food processing establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary

to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

(b) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(4) Linens and Soiled Clothes Storage.

(a) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

(b) Nonabsorbent containers or washable laundry bags shall be provided, and damp or soiled linens and clothes shall be kept in them until removed for laundering.

(5) Cleaning Equipment Storage. Maintenance and cleaning equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment or linen storage and shall be stored in an orderly manner.

(6) Animals. No live animals shall be allowed in any area used for food-service, food storage or food processing operations. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind or deaf persons, shall be permitted in dining areas.

('74 Code, § 6-25-7) (Ord. 67-1978; Am. Ord. 59-1987; Am. Ord. 9-1988)

§ 9-6-1-9 MOBILE FOOD UNITS OR PUSHCARTS.

(A) *Mobile Food Service.*

(1) General.

(a) Mobile food units and/or pushcarts processing food shall comply with the requirements of this division (a) except as otherwise provided in division (A)(1) and in division (A)(2) below. The enforcement authority may impose additional requirements to protect against health hazards related to the conduct of the food-service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this part relating to physical facilities, except those requirements of divisions (A)(4), (A)(5), (B)(1), (C)(1), and (C)(2) below.

(b) The name and address of any person transporting food for retail or wholesale shall be legibly painted or permanently affixed in letters no less than three inches high by one-half inch wide on each side of all transportation vehicles operated by such person. The transportation of food in passenger automobiles or pick-up trucks is prohibited. All food transportation shall be in enclosed van-type vehicles.

(2) **Restricted Operation.** Mobile food units and/or pushcarts that serve only food that is prepackaged in individual servings, transported and stored under conditions meeting the requirements of §§ 9-6-1-1 et seq., or beverages that are not potentially hazardous and are dispensed from individual sealed containers need not comply with requirements of §§ 9-6-1-1 et seq. pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary. Frankfurters shall not be prepared and served from units or pushcarts not having water or sewer systems.

(3) **Single-Service Articles.** Mobile food units and/or pushcarts shall provide only single-service articles for use by the consumer.

(4) **Water System.** A mobile food unit and/or pushcart requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitization, and handwashing, in accordance with the requirements of §§ 9-6-1-1 et seq. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped when not being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of §§ 9-6-1-1 et seq.

(5) **Waste Retention.** If liquid waste results from operation of a mobile food unit and/or pushcart, the waste shall be stored in a permanently installed retention tank that is of at least 15% larger capacity than the water supply tank. Liquid waste shall only be discharged as provided in division (C)(2)(b) of this section. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

(B) *Commissary.*

(1) **Base of Operations.**

(a) Mobile food units and/or pushcarts shall operate from a commissary or other fixed food-service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

(b) The commissary or other fixed food service or food processing establishment, used as base of operation for mobile food units or pushcarts, shall be constructed and operated in compliance with the requirements of §§ 9-6-1-1 et seq.

(C) *Servicing Area and Operations.*

(1) **Servicing Area.**

(a) A mobile food unit and/or pushcart servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart or where mobile food units do not contain waste retention tanks.

(b) The surface of the servicing area shall be constructed of a smooth, nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean and be graded to drain.

(c) The construction of the walls and ceilings of the servicing area is exempted from the provisions of § 9-6-1-8(B)(1) through (6) dealing with construction and maintenance of physical facilities.

(2) Servicing Operations.

(a) Potable water servicing equipment shall be installed according to the city code and shall be stored and handled in a way that protects the water and equipment from contamination.

(b) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system.

('74 Code, § 6-25-8) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-10 TEMPORARY FOOD SERVICE.

(A) *Temporary Food-Service Establishments.*

(1) General. A temporary food-service establishment shall comply with the requirements of §§ 9-6-1-1 et seq., except as otherwise provided in this division (1). The enforcement authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food-service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of §§ 9-6-1-1 et seq.

(2) Restricted Operations.

(a) These provisions are applicable whenever a temporary food-service establishment is permitted under the provisions of division (A)(1) above to operate without complying with all the requirements of this part.

(b) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters that require only seasoning and cooking, shall be

prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply, however, to any potentially hazardous food that has been prepared and packaged under conditions meeting the requirements of §§ 9-6-1-1 et seq.; is obtained in individual servings; is stored at a temperature of 45° F. (7° C.) or below, or at a temperature of 140° F. (60° C.) or above; in facilities that meet the requirements of §§ 9-6-1-1 et seq.; and is served directly in the unopened container in which it was packaged.

(3) Ice. Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of §§ 9-6-1-1 et seq. The ice shall be obtained only in chipped, crushed or cubed form and in single-use safe plastic or wet strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags, until it is dispensed, in a way that protects it from contamination. The bags shall be stored at least four inches off the ground.

(4) Equipment.

(a) Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(b) Food contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.

(5) Single-Service Articles. All temporary food-service establishments without effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

(6) Water. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided where applicable.

(7) Wet Storage. The storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

(8) Waste. All sewage, including liquid waste, shall be disposed of according to applicable city ordinances.

(9) Handwashing. A convenient handwashing facility shall be available for employee handwashing; soap and individual paper towels shall be available on the premises.

(10) Floors. Floors shall be constructed of concrete, asphalt, tight wood or other similar cleanable material kept in good repair. Dirt or gravel, when graded to drain, may

be used as sub-flooring when covered with clean, removable platforms or duckboards, or covered with wood chips, shavings or other suitable materials effectively treated to control dust and shall be changed at intervals to maintain a sanitary condition.

(11) Walls and Ceilings of Food Preparation Areas. Ceilings shall be made of wood, canvas, or other materials that protect the interior of the establishment from the weather.

('74 Code, § 6-25-9) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-11 LIMITED FACILITIES.

(A) **LIMITED FACILITIES** include, but are not limited to, facilities such as bed and breakfast homes, boarding and lodging houses, and adult residential shelter care facilities.

(B) The health authority may waive or modify any requirement pertaining to the design or construction of the physical facilities, or other section of §§ 9-6-1-1 et seq., when no threat to public health or safety will result.

('74 Code, § 6-25-10) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-12 INSPECTION OF FOOD SERVICE OR FOOD PROCESSING ESTABLISHMENTS.

(A) *Inspection Frequency.* The enforcement authority shall inspect each establishment at least once every four months and shall make as many reinspections as are necessary for the enforcement of §§ 9-6-1-1 et seq.

(B) *Access to Establishments.* The enforcement authority, after proper identification, shall be permitted to enter, at any reasonable time, any food-service or food processing establishment within the city, for the purpose of making inspections to determine compliance with §§ 9-6-1-1 et seq. The operator or person in charge of the establishment shall be given an opportunity to accompany the enforcement representative on his inspection. He shall be permitted to examine the records of the establishment to obtain pertinent information related to food source and supplies purchased, received or used, and list of persons employed.

(C) *Report of Inspections.* Whenever an inspection of a food-service or food processing establishment is made, the findings shall be recorded on an enforcement authority inspection form. The inspection report form shall summarize the requirements of §§ 9-6-1-1 et seq. and shall set forth a weighted point value for each requirement. The original copy of the inspection report form shall be furnished to the person in charge of the establishment as soon as possible after the inspection. The inspection form shall be signed by both the enforcement authority and the person in charge. The completed

inspection report form is a public document that shall be made available for public disclosure at the enforcement authority's office to any person who requests it.

(D) *Correction of Violations.*

(1) The inspection report form shall specify a specific and reasonable period of time for the correction of the violations found. Correction of the violations shall be accomplished within the period specified.

(a) If an imminent health hazard exists, such as complete lack of refrigeration or sewage back-up into the establishment, the establishment shall immediately cease operations. Operations shall not be resumed until authorized by the enforcement authority.

(b) In the case of temporary food-service establishments, all violations shall be corrected within 24 hours or shorter time period as specified by the enforcement authority. If the violations are not so corrected, the establishment shall immediately cease food-service operation.

(c) The report of inspection shall state that failure to comply with any time limits for correction will require that the establishment be downgraded.

(d) Whenever a food-service or food processing establishment is required under the provisions of this division (D) to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirements to cease operations no longer exist. A reinspection shall be made within three working days following the day on which it is requested.

(E) *Service of Notice.* Notices provided for under this division shall be deemed to have been properly served when the original of the inspection report form or other written notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of such notice shall be filed with the records of the enforcement authority.

(F) *Grading of Establishments.* Every food service and food processing establishment in the city shall display, in a place designated by the enforcement authority, and which is readily visible to the public, a placard stating the grade received at the time of the most recent inspection of the establishment; provided that temporary establishments, pushcarts, and mobile units dispensing only prepackaged food shall not be subject to grading. Grades of establishments shall be as follows:

(1) **Approved.** An establishment that is operated in compliance with the requirements of §§ 9-6-1-1 et seq.

(2) **Unsatisfactory.** An establishment having two consecutive violations of the same 4 or 5 point item and/or four consecutive violations of the same 1 or 2 point item, and/or four or more violations of 4 or 5 point items during any one inspection.

"Unsatisfactory" is a temporary grade with a maximum of ten days duration; failure to meet the standards for a higher grade within this period of time shall lead to immediate suspension of the establishment's operating permit. Immediately following each inspection, the enforcement authority shall post the appropriate grade based upon the inspection findings, and shall issue an appropriate notice to the operator. The permit holder or operator of any establishment, the grade of which has been lowered may, upon correcting all violations, request an inspection for the purpose of regrading the establishment. The enforcement authority shall, within five working days following receipt of a request for reinspection, make an inspection and thereafter as many additional inspections as he may deem necessary to assure himself that the applicant is complying with the higher grade requirements; and, if the findings include compliance, shall award the higher grade. The enforcement authority may require the food service operator, or his management designee, to attend an approved food service seminar.

('74 Code, § 6-25-11) (Ord. 67-1978; Am. Ord. 14-1983; Am. Ord. 18-1983; Am. Ord. 9-1988)

§ 9-6-1-13 COMPLIANCE PROCEDURES.

(A) *Permits.* It shall be unlawful for any person to operate a food-service or food processing establishment within the city who does not possess a valid permit issued to him by the enforcement authority. Such permit shall be posted in a conspicuous place, and only such persons who comply with the requirements of §§ 9-6-1-1 et seq. and other applicable laws, regulations, and ordinances shall receive and retain such permit. Permits shall not be transferable from one person to another person or place. Permits for temporary food-service establishments shall be issued for a period of time not to exceed two weeks, to a specific person for a specific location and shall be issued only for specific occasions.

(B) *Issuance of Permits.* The enforcement authority shall be contacted at least two working days prior to the anticipated opening date of the establishment for an inspection to determine compliance with the provisions of §§ 9-6-1-1 et seq. When the inspection reveals that the requirements of §§ 9-6-1-1 et seq. and other applicable laws, regulations and ordinances have been met, a permit application is issued. The applicant must present this application to the City Treasurer within two days. A permit will be issued after compliance.

(C) *Suspension of Permits.* Permits may be suspended by the enforcement authority for failure of the holder to comply with the requirements of §§ 9-6-1-1 et seq. or of other applicable laws, regulations or ordinances. An establishment's operating permit shall be immediately suspended in lieu of a third downgrading during any 36-month period under the same business management. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this section, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended. A hearing shall be granted within five working days, upon written request to the enforcement authority. Notwithstanding the other provisions of §§ 9-6-1-1 et seq., whenever the enforcement authority finds an imminent health hazard or

other conditions in the operation of a food-service or food processing establishment which, in his judgment, constitute a substantial hazard to the public health, he may without any prior warning, notice, or hearing, issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which action shall be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended and all food-service or food processing operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith. An opportunity for a hearing will be provided if a written request for a hearing is filed with the enforcement authority by the permit holder within five working days. The hearing shall be held within five working days after the date of the filing of the written request for the hearing.

(D) *Reinstatement of Suspended Permits.* Any person whose permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the permit. Within five working days following receipt of a request for reinspection, the enforcement authority shall make a reinspection. If the applicant complies with the requirements of §§ 9-6-1-1 et seq. and other applicable laws, regulations, and ordinances, the permit shall be reinstated.

(E) *Revocation of Permits.* For three or more suspensions within a 60-month period under the same business management; for failure of an establishment which has received a Grade of "Unsatisfactory" to meet the requirements of an "Approved" Grade within the required time period; for the fourth downgrading or the second suspension in lieu of downgrading within any 36-month period under the same business management; for refusal of entry after proper identification has been tendered; or for interference with the enforcement authority in the performance of his duties, the permit may be revoked after an opportunity for a hearing has been provided by the enforcement authority. Prior to such action, the enforcement authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be revoked at the end of five days following service of such notice, unless a request for hearing is filed with the enforcement authority by the permit holder within such five working day period. The hearing shall be held within five working days after the date of filing of the written request for the hearing.

(F) *Hearings.* The hearings provided for in this division shall be conducted by the enforcement authority at a time and place designated by him. Based upon the record of such hearing, the enforcement authority shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the enforcement authority.

(G) *Judicial Review.* The exclusive remedy or any party dissatisfied with any final decision of the enforcement authority shall be filing of a petition for Writ of *Certiorari* to the District Court within 30 days after written notice of the decision of the concerned party. The petition for review shall be limited to the record.

(H) *Injunctive Relief.* As an additional remedy, if any food processing or food-service establishment violates the provisions of §§ 9-6-1-1 et seq., the enforcement authority may seek injunctive relief in a court of competent jurisdiction.

(I) *Issuance of Citations.* Citations may be issued by the enforcement authority for failure to comply with any requirement set forth in §§ 9-6-1-1 et seq.

(J) A nonrefundable hearing fee of \$50.00 shall accompany each application for hearing conducted by the enforcement authority filed pursuant to this Section.

('74 Code, § 6-25-12) (Ord. 67-1978; Am. Ord. 9-1988; Am. Ord. 38-2002)

§ 9-6-1-14 EXAMINATION AND CONDEMNATION OF FOOD.

Samples of food, drink, and other substances may be taken and examined by the enforcement authority as often as necessary to determine freedom from unwholesomeness, adulteration or misbranding. Samples submitted for laboratory analysis shall be submitted to a laboratory approved by and under cognizance of a federal or state agency. The enforcement authority may, upon written notice to the owner or person in charge, place a hold order on any food which he determines or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. The enforcement authority shall tag, label or otherwise identify any food subject to the hold order and permit it to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on the food by the enforcement authority, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the enforcement authority, except on order by a court of competent jurisdiction. The hold order shall state that a request for a hearing may be filed within ten days and that if no hearing is requested the food shall be destroyed at the owner's expense. After the owner or person in charge has had a hearing as requested, and on the basis of evidence produced at such hearing, or on the basis of the enforcement authority's examination in the event a written request for a hearing is not received, the hold order may be vacated or the owner or person in charge of the food may be directed by written order to denature or destroy such food or bring it into compliance with the provisions of §§ 9-6-1-1 et seq. An order to destroy or denature food shall be stayed if the order is appealed to a court of competent jurisdiction within three days.

('74 Code, § 6-25-13) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-15 FOOD-SERVICE ESTABLISHMENTS OUTSIDE JURISDICTION OF THE ENFORCEMENT AUTHORITY.

Food from food-service establishments or food processing establishments located outside the jurisdiction of the enforcement authority may be sold within the city if such establishments conform to the provisions of §§ 9-6-1-1 et seq. or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the enforcement authority may accept reports from responsible authorities in other jurisdictions where such establishments are located.

('74 Code, § 6-25-14) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-16 PLAN REVIEW OF FUTURE CONSTRUCTION.

When a food-service establishment or food processing establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a food-service establishment, properly prepared plans and specifications for such construction, remodeling, or alteration, showing layout, arrangement, and construction materials of work areas, and the location, size, and type of fixed equipment and facilities shall be submitted to the enforcement authority for approval and to other appropriate city agencies before such work is begun.

('74 Code, § 6-25-15) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-17 PROCEDURE WHEN INFECTION IS SUSPECTED.

When the enforcement authority has reasonable cause to suspect possibility of disease transmission from any food-service or food processing establishment employee, the enforcement authority shall secure a morbidity history of the suspected employee, or make such other investigation as may be indicated, and take appropriate action. The enforcement authority may require any or all of the following measures:

(A) The immediate exclusion of the employee from any food-service or food processing establishment;

(B) The immediate closure of the food-service or food processing establishment concerned until, in the opinion of the enforcement authority, no further danger of disease outbreak exists;

(C) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and

(D) Adequate medical and laboratory examinations of the employee and of other employees.

('74 Code, § 6-25-16) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-18 INSPECTION AND TRANSFER FEES.

(A) *Food-Service Establishments.*

(1) Permanent Food Service Establishment. Each permanent food-service establishment shall pay an annual inspection fee of 2/10 of 1% of its gross sales for the calendar year ending the previous December 31, provided that no food-service establishment shall pay an inspection fee greater than \$400 nor less than \$100 except that:

(a) For the first calendar year of operation or portion thereof, the inspection fee shall be \$100 pro rated quarterly, but not less than \$50.

(b) In the case where there is, under single ownership or management, more than one food-service establishment or more than one place within an establishment where food is prepared or served within a single building or structure, and separate inspections are required, as determined by the enforcement authority, each such food-service establishment or place shall pay a separate annual fee. The food service location with the higher gross receipts shall be considered the primary establishment for the purposes of §§ 9-6-1-1 et seq. The inspection fee for each additional food service establishment or place shall not exceed \$200.

(2) Temporary Food-Service Establishments. Each temporary food-service establishment shall pay a fee of \$15 for each location. The fee shall be payable prior to the commencing of operation.

(3) Mobile Prepackaged Vendors. Each mobile prepackaged vendor shall pay an annual inspection fee of \$30 for each unit, payable prior to commencing operation.

(4) Mobile restaurants shall pay an annual inspection fee of \$50 for each unit, payable prior to commencing operation.

(B) *Food Processing Establishments.* Each food processing establishment shall pay an annual inspection fee of 2/10 of 1% of its gross sales for the calendar year ending the previous December 31, provided that no food processing establishment shall pay an inspection fee greater than \$400 nor less than \$100 except that:

(1) For the first calendar year of operation or portion thereof, the inspection fee shall be \$100 pro rated quarterly, but not less than \$50.

(2) In the case where there is, under single ownership or management, more than one food processing establishment or place, or more than one place within an establishment where food is processed, prepared, packaged, stored or distributed within a single building or structure, and separate inspections are required, as determined by the enforcement authority, each such Food Processing Establishment or place shall pay a separate annual fee. The food processing establishment location with the higher gross receipts shall be considered the primary establishment for the purposes of §§ 9-6-1-1 et seq. The inspection fee for each additional food processing establishment or place shall not exceed \$200.

(C) *Limited Facilities.* Each limited facility shall pay an annual inspection fee of \$50, payable prior to commencing operation.

(D) *Transfer Fee.* A transfer fee of \$50 shall be assessed when there is a new owner, lessee, or operator of a food-service establishment or food processing establishment and the annual inspection fee has been pre-paid. Such fee shall be due within 15 days of the commencement of operations by the new owner, lessee, or operator.

(E) *Payment of Fees.*

(1) Inspection fees are due on or before April 15 of each year; provided, however, that no person shall engage in the operations of a food-service or food processing establishment without first paying an inspection fee. The first year's fee shall be \$100 prorated on a quarterly basis but shall not be less than \$50 except for those which are subject to a fixed fee as provided in divisions (A)(2) through (4), (C) and (D). Thereafter, fees based on gross sales will be calculated on the actual gross sales for the calendar year ending the previous December 31. A late charge of 1½% of the inspection fee will be assessed for each month or fraction thereof that the inspection fee remains unpaid after the due date; provided, however, that the minimum late charge shall be \$15.

(2) In the event that any person fails to pay the inspection fee or transfer fee by the due date, or remits an amount less than the correct amount of the inspection fee due, the Mayor shall determine the amount of the inspection fee due using such statement or other available information. The Mayor shall thereupon give written notice to such person of the amount due, which amount shall be paid within five working days of receipt of such notice. Any such person may protest the amount so determined by the Mayor within five working days of receipt of such notice. The Mayor shall give at least five working days notice of the hearing at which the protestant may appear at the hearing and present evidence of the amount of gross sales done. Based upon the evidence presented at such hearing, the Mayor shall determine the amount due, if any, and protestant shall pay such amount within five working days of the Mayor's determination.

(3) In the event that the inspection fee is not paid by the April 15 due date or within five working days of the Mayor's determination of any protest filed, the Mayor may file a complaint before the Metropolitan Court alleging a violation of §§ 9-6-1-1 et seq. and may also take such action as necessary to collect the inspection fee including any late charges.

(4) The Mayor is authorized and empowered to make inspections and audits of the books and related records of any person subject to the provisions of §§ 9-6-1-1 et seq.; and every such person shall maintain good and accurate books and related records of the gross sales of business done, which books and records shall be made available for inspection and audit as may be deemed necessary to the Mayor in the administration of any of the provisions of §§ 9-6-1-1 et seq.

(5) Notices provided for under this division (E) shall be deemed to have been properly served when written notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of such notice shall be filed with the records of the enforcement authority.

(6) In addition to the remedies provided above, the Mayor may suspend or revoke any permit issued pursuant to §§ 9-6-1-1 et seq. for failure to pay that inspection fee including any late charges. If the Mayor has reasonable cause to believe that a person has failed to pay the inspection fee including any late charges, the Mayor shall give the permit holder 15-days written notice of a hearing to be held before the Mayor to

determine whether or not the permit shall be suspended or revoked. At the hearing, the permit holder shall have the right to present evidence which may aid the Mayor in determining whether the inspection fee including any late charges has been paid. If, after such hearing, the Mayor finds the inspection fee including any late charges has not been paid, the Mayor shall suspend or revoke the permit and cause to be filed within five working days after the hearing, in the office of the City Clerk and served upon the permit holder, a written statement of the facts upon which such finding is based. Any permit that has been suspended or revoked for nonpayment of the inspection fee including any late charges shall be reinstated upon payment of the inspection fee including any late charges.

(7) Lien. The city may file a lien against the personal and real property of the permit holder for any delinquent permit fee and/or penalty.

(8) Administrative Review. An administrative review shall be conducted by the Mayor of the costs of services and fees every even-numbered year. Recommendations on these costs shall be made to the Council for necessary and appropriate adjustments in fees.

('74 Code, § 6-25-17) (Ord. 67-1978; Am. Ord. 48-1979; Am. Ord. 18-1983; Am. Ord. 9-1988)

§ 9-6-1-19 DISCLOSURE OF INFORMATION.

It is unlawful for any present or previous City Official, employee or agent to reveal the New Mexico Gross Receipts Tax Identification Number, any gross receipts information, or any payment information pertaining to any person or entity regulated by city ordinance to anyone except as provided by Section 7-1-8 NMSA 1978.

('74 Code, § 6-25-18) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-20 ADMINISTRATION AND INTERPRETATION.

The enforcement authority shall be responsible for the administration and enforcement of §§ 9-6-1-1 et seq. Rules and regulations to carry out the intent and purpose of §§ 9-6-1-1 et seq. shall be prescribed by the enforcement authority pursuant to standards created in §§ 9-6-1-1 et seq., subject to establishment hearing and review procedures.

('74 Code, § 6-25-19) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-21 VARIANCES.

The enforcement authority may grant an individual variance from the limitations prescribed in §§ 9-6-1-1 et seq. whenever it is found upon presentation of adequate proof, that compliance with that specific part of §§ 9-6-1-1 et seq. will impose an undue economic burden or hardship upon the business and that granting of the variance will not

result in a condition injurious to health or safety. Any person seeking a variance shall do so in writing, setting forth their reasons for the variance and stating the length of time for which they seek the variance. The enforcement authority shall promptly investigate the petition and make a determination as to the disposition thereof. The party seeking this variance shall be given a decision within ten working days following receipt of the request by the enforcement authority.

('74 Code, § 6-25-20) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-22 AVAILABILITY OF ORDINANCE.

A copy of the "Food Sanitation Ordinance" [i.e., §§ 9-6-1-1 et seq.] is now on file in the Office of the City Clerk/Recorder and is available for inspection by the public during regular business hours. A copy of the ordinance [i.e., §§ 9-6-1-1 et seq.] shall be available to any individual upon request and the payment of a reasonable charge as set by the Chief Administrative Officer, to be not less than the actual cost per copy.

('74 Code, § 6-25-21) (Ord. 67-1978; Am. Ord. 9-1988)

§ 9-6-1-99 PENALTY.

Every person convicted of a violation of any provision of §§ 9-6-1-1 et seq. shall be guilty of a misdemeanor and shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances. Every violation of §§ 9-6-1-1 et seq. shall be a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

('74 Code, § 6-25-22) (Ord. 67-1978; Am. Ord. 9-1988)